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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/595,716	12/22/2006	Arthur Bunn	27726-103050	5188
23644 7590 10/28/2009 BARNES & THORNBURG LLP P.O. BOX 2786 CHICAGO, IL 60690-2786				
EXAMINER ALEXANDER, REGINALD				
ART UNIT 3742		PAPER NUMBER		
NOTIFICATION DATE 10/28/2009		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

Patent-ch@btlaw.com

Office Action Summary

Application No.

10/595,716

Applicant(s)

BUNN, ARTHUR

Examiner

Reginald L. Alexander

Art Unit

3742

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-17, 19-24 and 28-30 is/are rejected.
- 7) ☒ Claim(s) 6, 18, 25-27 and 31 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/06)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Paper No(s)/Mail Date: ____
- 6) ☐ Notice of Informal Patent Application
- 7) ☐ Other: ____
- 8) ☐ Paper No(s)/Mail Date: 5/5/06

DETAILED ACTION

Claim Objections

Claim 1 is objected to because of the following informalities: at line 8, "though" should read "through"; at line 9, after "communicating" it appears that the sentence is incomplete. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 4, 7, 9-14, 16, 19-24 and 28-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Winstanley et al. in view of Westbrook et al.

There is disclosed in Winstanley a beverage making apparatus for controllably producing a beverage from a beverage making substance by combining heated water with a beverage substance, the apparatus comprising: a controller (para. 0027); a controllable water source 102; a water dispensing line communicating with the water source; a flow meter 200 communicating with the water dispensing line and coupled to the controller for monitoring the volume of water flowing through the water dispensing line; a controllable heated water reservoir 204 communicating with the water dispensing line and coupled to the controller for controllably heating water for use in making beverages; a spray head 300 communicating with the heated water reservoir; and a

pump 202 communicating with the water dispensing line and coupled to the controller for pumping water to the spray head.

Westbrook discloses for use in a beverage making device, a volume adjustment assembly (para. 0133) in the form of a touch tone screen, and coupled with a controller for selectively adjusting the volume of water dispensed for the production of the beverage.

It would have been obvious to one skilled in the art to provide the apparatus of Winstanley with the volume adjustment assembly taught in Westbrook, in order to allow for user determined variations in the amount of beverage and flavor of beverage.

In regards to claims 28 and 29, the location of the adjustment control assembly is an obvious matter of design choice, since the operation of the apparatus would be the same.

Claims 3 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Winstanley et al. in view of Westbrook as applied to claims above, and further in view of Green et al.

Green discloses that it is old and well known in the art to use, as a water source, a pressurized water line.

It would have been obvious to one skilled in the art to substitute the water source of Winstanley, as modified by Westbrook, with the pressurized water line taught in Green, in order to provide a continuous supply of water to the apparatus.

Claims 5, 8 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Winstanley et al. in view of Westbrook et al. as applied to claims above, and further in view of Fanzutti et al.

Fanzutti discloses that it is old and well known in the art to provide a level sensor in association with a water reservoir.

It would have been obvious to one skilled in the art to provide the water reservoir of Winstanley, as modified by Westbrook, with the level sensor taught in Fanzutti, in order to monitor the amount of water remaining in the reservoir.

Allowable Subject Matter

Claims 6, 18, 25-27 and 31 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art references to Stoner, Denisart and Chen et al. are cited for their disclosure of the state of the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reginald L. Alexander whose telephone number is 571-272-1395. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tu Hoang can be reached on 571-272-4780. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Reginald L. Alexander/
Primary Examiner
Art Unit 3742